



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/344,795 | 06/25/1999 | NICHOLAS D. EVANS | 044508.0005 | 9466 |

7590 12/12/2001

H DALE LANGLEY JR
AKIN GUMP STRAUSS HAUER & FELD LLP
FROST BANK PLAZA, SUITE 1900
816 CONGRESS AVENUE
AUSTIN, TX 78701

EXAMINER

REAGAN, JAMES A

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 12/12/2001

Please find below and/or attached an Office communication concerning this application or proceeding.



38

Office Action Summary

Application No.

09/344,795

Applicant(s)

EVANS, NICHOLAS D.

Examiner

James A. Reagan

Art Unit

2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 26-32 and 36-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Detailed Action

1. This action is in response to the application filed on June 25, 1999.
2. Claims 1-45 have been examined.

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C 121:
 - I. Claims 1-25 and 33-35, drawn to a method of providing customer service interactions between customers and companies, classified in class 705, subclass 10.
 - II. Claims 26-32, drawn to a database operation in a to provide customer service interaction between customers and companies, classified in class 707, subclass 3.
 - III. Claims 36-45, drawn to a method of providing a rating system for companies and their products, classified in class 705, subclass 14.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. See MPEP § 806.05(d).

Invention I is directed to a method of providing a rating system for companies and their products through a communication network based on received comments and feedback from consumers of the product or service. Any data management system may be used to compile these comments. Some of

the dependent claims further cite assigning values to comments and rating and ranking the compilation of comments.

Invention II is directed to database operations that provide customer service information during interactions between customers and companies through a communication network. In particular, these claims address the interfaces and devices used to deliver and retrieve data from the database. The recited operation can be applied to any type of information system that provides or retrieves information from a database over a network.

Invention III is directed to a method of providing a rating system for companies and their products through a communication network. Namely, these claims address a membership program, membership activation, and membership levels. All of the claims in this invention recite a method for providing an incentive to perform the rating or award points. No points are awarded in Invention I as recited in Invention III and any data management system may be used.

4. Although Inventions I, II, and III are all related to customer service interactions in general, each group of the inventions are separately usable for the reasons stated above. More specifically, each of the Inventions I, II, and III do not require the limitations of any of the other groups to be usable. Because these inventions are distinct for the reasons given above and the search required for any one of the Groups I, II, and II is not required for any of the others, restriction for examination purposes as indicated is proper.

Art Unit: 2163

5. During a telephone conversation with Dale Langley on 07 December 2001, a provisional election was made with no traverse to prosecute the invention of Group I claims 1-25 and 33-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 26-32 and 36-45 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Oath/Declaration

6. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.
7. The oath or declaration is defective because:

The title on the application is different from the title on the oath/declaration page. See MPEP § 601.01(a).

Drawings

8. The drawings have been objected to by the Draftsperson for the reasons stated on PTO form 948 attached hereto.

Specification

9. The applicant is reminded that the claims section of the specification should begin on a separate page. Correction is required.

Claim Rejections - 35 USC § 112

- 10.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 11.** Claims 15, 16, and 19 are rejected under 35 USC 112 second paragraph.

Claims 15 and 16:

Claim 15 recites the limitation "said forwarding the comment to the company". There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "said forwarding the comment to the company." There is insufficient antecedent basis for this limitation in the claim.

Claim 19:

The term "forcing" in claim 19 implies that the user has no choice but to register, which renders the claim vague and indefinite, since it is not clear how the user is obligated to register. The term "forcing" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The examiner respectfully suggests the term "requiring" in place of "forcing."

Claim Rejections - 35 USC § 102

- 12.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2163

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claims 1-11, 15-22, 24, 25, and 33-35 are rejected under 35 U.S.C. 102(a) as being anticipated by EBAY. For the purpose of rejection under 35 U.S.C. 102 (a), references (a) and (b), as cited in the Conclusion and teach the features of the instant invention, are incorporated to evidence a priority date of May 1999.

Claim 1:

EBAY receives a comment from the buyer about a product or service purchased from a seller on their auction site (enclosures 2 and 3).

The comment is stored for future reference (enclosures 2 and 4).

Users may access and review historical feedback through the network (enclosures 2 and 5).

Claim 2:

Notifications (enclosure 6).

User (company) logs in and queries the database for comments left for the user (enclosures 7 and 4).

Company responds to the comment left by the buyer (enclosure 4).

The response is stored for future reference (enclosures 2 and 4).

Users may access and review historical feedback through the network (enclosures 2 and 5).

Claim 3:

The feedback history about the company is displayed (enclosure 8).

Claim 4:

Notifications (enclosure 6).

User (buyer) logs in and queries the database for comments or responses left for the user (enclosures 7 and 4).

User reviews the comments and responses (enclosure 8).

Claim 5:

Comments and rating scheme (enclosure 2).

Claim 6:

Comments and rating scheme (enclosure 2).

Claim 7:

EBAY transacts business with a plurality of buyers and sellers worldwide, each participant being rated by the same rating system (enclosure 2).

Claim 8:

Assigning values to each comment (enclosure 2).

Compiling the values (enclosure 2).

Ranking the scores (enclosure 10).

Providing access to the ratings over the network (enclosures 2 and 5).

Claim 9:

Sorting by complaint or praise (enclosure 11).

Assigning numeric values (enclosure 11).

Compiling comments and adding values (enclosure 11).

Providing access to the comments (enclosure 11).

Art Unit: 2163

Claim 10:

Email notification (enclosure 6).

Claim 11:

Feedback data entry form (enclosure 12).

Claim 15:

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11).

Email notification (enclosure 6).

Claim 16 :

Email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer).

Buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

Claim 17:

Feedback data entry form (enclosure 12).

Claim 18:

Registering on EBAY (enclosure 15).

Art Unit: 2163

Claim 19:

Registration is required before a company may buy and sell products and services on EBAY, as well as send and receive comments and feedback. After the log in query, a company may fill out a registration data form to access EBAY products and services (enclosure 15).

Claim 20:

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11).
Email notification (enclosure 6).

Claim 21:

Email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer).

Buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

Claim 22:

Email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer).

Buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

Claim 24:

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11). Email notification (enclosure 6).

Claim 25:

Communication is accomplished over the online over the Internet, as well as with other communication systems that operate separately or in conjunction with the Internet (enclosure 1).

Claims 33-35:

Inherently, computers, servers, and databases are comprised of processors, memory devices, communication devices, application programs and code written to control and utilize the various hardware components of a computer networking system. Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. Furthermore, software code written specifically for the purpose of implementing the tasks outlined in the limitations recited in claims 33-35 have been inherently disclosed in the rejections of Claims 1-32 above.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 12-14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel et al. United States Patent Number 6,037,934, herein referred to as "Himmel."

Claims 12, 13, 14, and 23:

EBAY discloses the system of providing feedback communications in the rejection of claim 1 above. EBAY does not specifically disclose using HTML formats (dynamic and static), JAVA applets, ActiveX controls, or XML formats. Himmel, however, does disclose the use of HTML, JAVA, and ActiveX (column 15, lines 21-25), as well as XML (column 21, line 34) when accessing and viewing web pages. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize HTML formats (dynamic and static), JAVA applets, ActiveX controls, or XML formats when constructing the data forms because these formats are widely used throughout the Internet community and provide an efficient and uncomplicated means for gathering, storing, accessing, and displaying data through a network communication system.

Art Unit: 2163

Utilizing these common protocols and formats provides a universal and familiar landscape for promoting electronic feedback.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following articles have been cited to provide a priority date.

(a) PC World. "Don't Get Taken at Web Auctions." May 1999; PC World v17, n5, p27.

(b) Mannix, Margaret. " Who's Been Naughty and Who's Been Nice." September 27, 1999; US News and World Report v127 n12, p60.


Art Unit: 2163

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Reagan whose telephone number is 703.306.9131. The examiner can normally be reached on 8:00a - 5:00p M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703.305.9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703.746.7239 for regular communications and 703.746.7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

JAR
December 10, 2001



Kyle Choi
Patent Examiner
Art Unit 2163